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PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या की जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 1st December, 1987:—

BILL No. XLIX OF 1987

A Bill further to amend the Maternity Benefit Act, 1961.

Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Maternity Benefit (Amendment) Act, 1987.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short
title
and
commen-
cement.

2. In section 2 of the Maternity Benefit Act, 1961 (hereinafter referred to as the principal Act), in sub-section (1), for the opening paragraph, the following shall be substituted, namely:—

Amend-
ment of
section
2.

(1) It applies, in the first instance,—

(a) to every establishment being a factory, mine or plantation including any such establishment belonging to Government and to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances;

(b) to every shop or establishment within the meaning of any law for the time being in force in relation to shops and establishments in a State, in which ten or more persons are employed, or were employed, on any day of the preceding twelve months:”.

Amend-
ment of
section
3.

3. In section 3 of the principal Act, in clause (e),—
 (a) in sub-clause (iv), the word "or" at the end shall be omitted;
 (b) after sub-clause (iv), the following sub-clause shall be inserted, namely:—
 "(va) a shop or establishment; or"

Amend-
ment of
section
5.

4. In section 3 of the principal Act,
 (a) in sub-section (1),—
 (i) for the opening paragraph, the following shall be substituted, namely:—
 "(1) Subject to the provisions of this Act, every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of the average daily wage for the period of her actual absence, that is to say, the period immediately preceding the day of her delivery, the actual day of her delivery and any period immediately following that day;"
 (ii) in the *Explanation*, for the words "or one rupee a day, whichever is higher.", the words "the minimum rate of wage fixed or revised under the Minimum Wages Act, 1948 or ten rupees, whichever is the highest." shall be substituted;

11 of 1948.

(b) in sub-section (2),—
 (i) for the words "one hundred and sixty days" at both the places where they occur, the words "eighty days" shall be substituted;
 (ii) in the *Explanation* for the words "the days for which she has been laid off", the words "the days for which she has been laid off or was on holidays declared under any law for the time being in force to be holiday with wages" shall be substituted;
 (c) in sub-section (3),—
 (i) for the opening paragraph, the following shall be substituted, namely:—
 "(3) The maximum period for which any woman shall be entitled to maternity benefit shall be twelve weeks of which not more than six weeks shall precede the date of her expected delivery;"
 (ii) for the second proviso, the following proviso shall be substituted, namely:—
 "Provided further that where a woman, having been delivered of a child, dies during her delivery or during the period immediately following the date of her delivery for which she is entitled for the maternity benefit, leaving behind in either case the child, the employer shall be liable for the maternity benefit for that entire period but if the child also dies during the said period, then, for the days up to and including the date of the death of the child.".

5. In section 6 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) On receipt of the notice, the employer shall permit such woman to absent herself from the establishment during the period for which she receives the maternity benefit.”.

6. In section 8 of the principal Act, for the words “twenty-five rupees”, the words “two hundred and fifty rupees” shall be substituted.

7. In section 12 of the principal Act, in sub-section (2), for clause (b), the following clause shall be substituted, namely:—

“(b) Any woman deprived of maternity benefit or medical bonus, or both, or discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may, within sixty days from the date on which order of such deprivation or discharge or dismissal is communicated to her, appeal to such authority as may be prescribed, and the decision of that authority on such appeal, whether the woman should or should not be deprived of maternity benefit or medical bonus, or both, or discharged or dismissed shall be final.”.

8. In section 17 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Any woman claiming that—

(a) maternity benefit or any other amount to which she is entitled under this Act and any person claiming that payment due under section 7 has been improperly withheld;

(b) her employer has discharged or dismissed her during or on account of her absence from work in accordance with the provisions of this Act, may make a complaint to the inspector.

(2) The Inspector may, of his own motion or on receipt of a complaint referred to in sub-section (1), make an inquiry or cause an inquiry to be made and if satisfied that—

(a) payment has been wrongfully withheld, may direct the payment to be made in accordance with his orders;

(b) she has been discharged or dismissed during or on account of her absence from work in accordance with the provisions of this Act, may pass such orders as are just and proper according to the circumstances of the case.”.

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Any amount payable under this section shall be recoverable by the Collector on a certificate issued for that amount by the Inspector as an arrear of land revenue.”.

Amend.
ment of
section
6.

Amend.
ment of
section
8.

Amend.
ment of
section
12.

Amend.
ment of
section
17.

Substi-
tution of
new
section
for
section
21.

Penalty
for con-
traven-
tion of
Act by
employ-
yer.

9. For section 21 of the principal Act, the following section shall be substituted, namely:—

“21. (1) If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, he shall be punishable with imprisonment which shall not be less than three months but which may extend to one year and with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees:

Provided that the court may, for sufficient reasons to be recorded in writing, impose a sentence of imprisonment for a lesser term or fine only in lieu of imprisonment.

(2) If any employer contravenes the provisions of this Act or the rules made thereunder, he shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both:

Provided that where the contravention is of any provision regarding maternity benefit or regarding payment of any other amount and such maternity benefit or amount has not already been recovered, the court shall, in addition, recover such maternity benefit or amount as if it were a fine and pay the same to the person entitled thereto.”.

Amend-
ment of
section 22.

10. In section 22 of the principal Act, for the words “which may extend to three months, or with fine which may extend to five hundred rupees”, the words “which may extend to one year, or with fine which may extend to five thousand rupees” shall be substituted.

Substi-
tution of
new
section
for
section 23.

Cognisance
of offences.

11. For section 23 of the principal Act, the following section shall be substituted, namely:—

“23. (1) Any aggrieved woman, an office-bearer of a trade union registered under the Trade Unions Act, 1926 of which such woman is a member or a voluntary organisation registered under the Societies Registration Act, 1860 or an Inspector, may file a complaint regarding the commission of an offence under this Act in any court of competent jurisdiction and no such complaint shall be filed after the expiry of one year from the date on which the offence is alleged to have been committed.

(2) No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence under this Act.”.

16 of 1926.

21 of 1860.

STATEMENT OF OBJECTS AND REASONS

The Maternity Benefit Act, 1961 regulates the employment of women in certain establishments before and after child-birth and provides for maternity and certain other benefits.

2. The Act was last amended in 1976. Since then, certain suggestions for further amendments have been received. A working Group of the Economic Administration Reforms Commission (EARC) had also reviewed the provisions of the Act in 1984 and made certain recommendations for amendment. Based on these suggestions/recommendations, it is proposed to carry out certain amendments in the Act. Some of the more important amendments are:—

(i) The provisions of the Act are being extended to shops or establishments employing ten or more persons;

(ii) The qualifying period for grant of maternity benefit is being reduced from 160 days of actual work in the preceding 12 months to 80 days of actual work in the preceding 12 months;

(iii) The rate of maternity benefit payable to woman employees for each day of absence due to maternity is proposed to be fixed at the average daily wages or the minimum rate of wages fixed or revised under the Minimum Wages Act or ten rupees, whichever is higher. The existing rate is average daily wage or one rupee a day, whichever is higher;

(iv) The rate of medical bonus payable to woman employees in case the employer does not provide pre-natal confinement and post-natal care free of charge is being raised from twenty-five rupees to two hundred and fifty rupees;

(v) Provision is being made for empowering Inspectors appointed under the Act to issue suitable direction to the employers in case of wrongful discharge or dismissal of the woman employees for absence during maternity, etc.

(vi) A provision is being made for filing of complaint with the competent court by the aggrieved woman or an office bearer of a registered trade union of which such woman is a member or a voluntary organisation or an Inspector. At present, complaints can be filed only with the previous sanction of the Inspector.

(vii) Penalties prescribed under the Act are being made more stringent.

3. The other amendments proposed in the Bill are of a minor and consequential nature.

4. The Bill seeks to give effect to the above mentioned proposals.

FINANCIAL MEMORANDUM

The Maternity Benefit Act, 1961 is applicable to factories, mines plantations and certain other establishments including those belonging to the Government.

2. Clause 2 of the Bill seeks to extend the provisions of the Act to shops or establishments employing ten or more persons. Clause 6 of the Bill seeks to enhance the amount of medical bonus from twenty-five rupees to two hundred and fifty rupees. The enforcement of these two clauses will involve certain expenditure on the establishments concerned by way of payment of maternity benefit and medical bonus to their woman employees.

3. Woman Government servants are generally entitled to maternity benefit and pre-natal and post-natal medical care under the Government rules. The proposed extension of the provisions of the Act to shops or establishments employing ten or more persons or the enhancement of the rate of medical bonus which is payable in cases where pre-natal confinement and post-natal care is not provided by the employer may not involve any additional expenditure to the Government. There could, however, be casual or contingent employees who may not be entitled to maternity benefit or medical care under the Government rules. Such employees would have to be paid maternity and other benefits in accordance with the provisions of the Act which will involve some expenditure from the Consolidated Fund of India because of the proposed provisions under clauses 2 and 6. However, as the benefit becomes payable only in the event of delivery, miscarriage, etc., it is not possible to estimate in advance the expenditure involved.

4. The Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

SUDARSHAN AGARWAL,
Secretary-General.